

United States-Mexico-Canada Agreement

The U.S. and Canada reached a deal late Sunday to update the North American Free Trade Agreement (NAFTA), with each side bending on core issues. The U.S. completed negotiations a few weeks ago with Mexico. Canada will now join the U.S. and Mexico in updating the 1994 accord, which will be renamed the United States-Mexico-Canada Agreement (USMCA). Congress still must approve the final deal before it is effective. Below are highlights of the agreement:

Environment

All three parties agreed “to enhance the effectiveness of customs inspections of shipments containing wild fauna and flora” and to “support sustainable forest management.” This is slightly stronger language than the current NAFTA agreement.

Autos

NAFTA talks were conducted under threat of a steep escalation of tension: imposition of U.S. auto tariffs. The deal struck Sunday offers a measure of protection for both Canada and Mexico, ensuring each country won’t be affected by any auto tariffs unless exports top 2.6 million units annually.

For each, that represents their current exports plus growth of at least 40 percent -- enough to mean that if the tariffs are leveled against the rest of the world, they likely wouldn’t hit Canada and Mexico for a couple of years. There’s no guarantee that the Trump administration will impose the tariffs at all, or keep them in place that long.

As expected, the deal calls for cars to have 75 percent of their content originate in the U.S. and Mexico, up from the current 62.5 percent, and for 40 percent of a car to come from workers whose pay averages more than \$16 per hour. The rules are a central part of the U.S. strategy to rebalance manufacturing to benefit American workers.

Other Tariffs

The deal doesn’t resolve the dispute over U.S. tariffs on steel and aluminum imports from Canada and Mexico -- or the retaliatory tariffs that each country placed on them. But going forward, it did give a guarantee that no tariff applied under the same U.S. law could be imposed against Canada or Mexico for at least 60 days. During that period, “the United States and Canada shall seek to negotiate an appropriate outcome based on industry dynamics and historical trading patterns,” the countries agreed.

Dispute Panels

NAFTA had three kinds of dispute settlement systems. The new deal will see two remain

basically unchanged, but renamed, according to senior White House officials. State-to-state dispute settlement (formerly Chapter 20), is being kept. It has many critics, particularly in the labor community, because panels often get blocked and disputes linger for years.

The old NAFTA's dispute-settlement mechanism (formerly Chapter 19), which hears bi-national anti-dumping and countervailing duties cases, remains untouched in the new agreement, the officials said. Canada dug in to save those.

Investor-state dispute settlement (formerly in Chapter 11), a system through which investors (i.e. companies) can sue countries for alleged discriminatory practices, will be phased out between the U.S. and Canada, but remain in place for certain key sectors -- such as oil and gas, infrastructure and telecommunications -- between the U.S. and Mexico, according to the White House officials.

Dairy

As part of the deal, the U.S. is getting expanded access to Canada's protected dairy market, long a thorn in the side of trade talks. Canada will eliminate its so-called Class 7 milk pricing system, according to senior U.S. administration officials. New measures will prevent Canada's system from spilling outside its borders, while market access for the U.S. will exceed Canada's concessions in Trans-Pacific Partnership talks, the U.S. official said. Canada gave up 3.3 percent of its market in those TPP talks, but the U.S. has since quit the deal.

No Sunset

The U.S. had demanded a sunset clause that would kill NAFTA after five years unless the countries agreed to extend it. Few ideas upset the Canadians and Mexicans more than that. In the end, the countries agreed to a 16-year term for the deal, with a review to identify and fix problems and a chance of a deal extension after six years. U.S. Trade Representative Robert Lighthizer said in August that the review mechanism is designed to solve problems and prevent them from festering, rather than to terminate the deal.

Intellectual Property

The office of the U.S. Trade Representative believes that the deal will provide "new protections for U.S. intellectual property," which the U.S. had been seeking. Copyright will, for instance, extend 70 years after an author's death.

Higher Thresholds

Both Canada and Mexico agreed to raise the thresholds at which they apply duties to cross-border purchase, another key U.S. demand. Mexico raised its so-called de minimis level to \$100 from \$50. Canada raised its to C\$150 (\$117) for duties, from C\$20 earlier, and C\$40 for sales taxes.